

(2000) 08 DEL CK 0075
In the Delhi High Court
Case No : C.R. No.732 of 1991

Mahanagar Telephone Nigam Limited

APPELLANT

Vs

Harish Kathuria

RESPONDENT

Date of Decision : 01-08-2000

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115
Telegraph Act, 1885 — Section 7B
Telegraph Rules, 1885 — Rule 420

Citation : (2000) 08 DEL CK 0075

Hon'ble Judges : K. Ramamoorthy, J

Bench : Single Bench

Advocate : Mr. Piyush Sharma, for the Appellant;

Judgement

CR.No. 732/91

1. The respondent/plaintiff filed a suit challenging the notice of disconnection. Issues were framed. One of the point taken by the Mahanagar Telephone Nigam Limited (MTNL) was the dispute raised by the plaintiff come within the purview of Section 7B of the Indian Telegraph Act, 1885 and Therefore the plaintiff should seek for an appointment of arbitrator under the provisions of Act. That point was decided as a preliminary issue. The lower Court has taken the view that the dispute does not fall u/s 7B and framed issue for trial of the case. That is challenged in the revision petition.

2. Section 7B of the Indian Telegraphic Act, 1885 reads as under:-

"7-B. Arbitration of disputes. _(1) Except as otherwise expressly provided in this Act, if any dispute concerning any telegraph line, appliance or apparatus arises between the telegraph authority and the person for whose benefit the line, appliance or apparatus is, or has been, provided, the dispute shall be determined by arbitration and shall, for the purpose of such determination, be referred to an arbitrator appointed by the Central Government either specially for the

determination of that dispute or generally for the determination of disputes under this section.

(2) The award of the arbitrator appointed under sub-section (1) shall be conclusive between the parties of the dispute and shall not be questioned in any Court.

Dispute relating to actual reading of meter involving questions as to whether meter had been correctly and honestly read and the readings had been correctly and honestly noted down, is outside the purview of Section 7-B(1) of the Act. Filing of petition is not barred by this section."

3. The ground on which notice of disconnection was issued was that the telephone being misused by the third party and that is the reason why notice under Rule 420 of the Indian Telegraph Rules, 1885 was issued. When that is so it is a matter coming within the purview of Section 7B, and, Therefore, the view taken by the Lower Court cannot be sustained. Accordingly the order of the Lower Court dated 29.7.91 is set aside and liberty is granted to the respondent/plaintiff to have recourse to the proceedings u/s 7B of the Indian Telegraphic Act, 1951. The petitioner shall inform the respondent and appoint an arbitrator under the provisions of the Act.

CR stands allowed.

4. There shall be no order as to costs.